



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTON  
ATTORNEY GENERAL**

July 3, 1989

Honorable Wilhelmina Delco  
Chairman  
Higher Education Committee  
Texas House of Representatives  
P. O. Box 2910  
Austin, Texas 78768-2910

LO-89-54

Dear Representative Delco:

You ask whether article 6701<sup>1</sup>-1, V.T.C.S., authorizes a judge to order the confiscation of a vehicle from an offender upon a first conviction for driving while intoxicated.

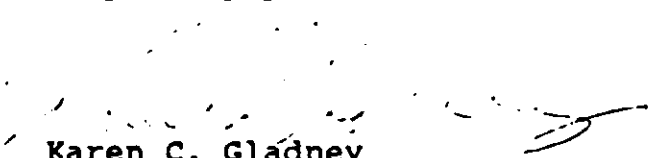
Article 6701<sup>1</sup>-1, V.T.C.S., prescribes fines and jail terms for persons convicted of driving while intoxicated, but that article does not provide for confiscation of the vehicle either on first or subsequent convictions. Article 6701<sup>1</sup>-7 provides for the forfeiture of a motor vehicle after multiple convictions for driving while intoxicated or for certain cases of involuntary manslaughter.

Neither article 6701<sup>1</sup>-1 nor article 6701<sup>1</sup>-7 provides for confiscation and forfeiture of an offender's automobile on a first conviction of driving while intoxicated. We have been unable to locate any other statute that prescribes that punishment for a first conviction for driving while intoxicated.

It has long been established in this state that punishment for criminal offenses must be prescribed by statute. See, e.g., Kerley v. State 230 S.W. 163 (Tex. Crim. App. 1921); Hall v. State 188 S.W. 1002 (Tex. Crim. App. 1916);

Smith v. State, 7 Ct. App. 286 (1879); Tuttle v. Wood 35 S.W.2d 1061 (Tex. Civ. App. - San Antonio 1930, writ ref'd). Therefore, we answer your question in the negative.

Very truly yours,



Karen C. Gladney  
Assistant Attorney General  
Opinion Committee

APPROVED: Sarah Woelk, Chief  
Letter Opinion Section

KCG/er

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